

Public Chapter 290

SENATE BILL NO. 1718

By Kyle

Substituted for: House Bill No. 1591

By Kent

AN ACT To amend Tennessee Code Annotated, Title 10; Title 33 and Title 63, relative to the confidentiality of certain communications.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. (a) All memoranda, work notes or products, case files and communications related to mental health intervention techniques conducted by mental health professionals in a group setting to provide job-related critical incident counseling and therapy to law enforcement officers, emergency medical technicians, emergency medical technician-paramedics, and firefighters, both volunteer and professional, are confidential and privileged and are not subject to disclosure in any judicial or administrative proceeding unless all parties waive such privilege. In order for such privilege to apply, the incident counseling and/or therapy shall be conducted by a qualified mental health professional as defined in § 33-10-301(2).

(b) For the purposes of this section, a group setting means that more than one (1) person is present with the mental health professional when the incident counseling and/or therapy is being conducted.

(c) All memoranda, work notes or products, case files and communications pursuant to this section shall not be construed to be public records pursuant to Title 10, Chapter 7.

(d) Nothing in this section shall be construed as limiting a licensed professional's obligation to report suspected child abuse or limiting such professional's duty to warn about dangerous individuals as provided under Title 33, Chapter 10, Part 3, or other provisions relevant to the mental health professional's license.

(e) Nothing in this section shall be construed as limiting the ability of a patient or client, or their survivor, to discover under the rules of civil procedure or to admit in evidence under the rules of evidence any memoranda, work notes or products, case files and communications which are privileged by this section and which are relevant to a malpractice action or any other action by a patient against a mental health professional arising out of the professional relationship. In such an action against a mental health professional, neither shall anything in this

section be construed as limiting the ability of the mental health professional to so discover or admit in evidence such memoranda, work notes or products, case files and communications.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.